

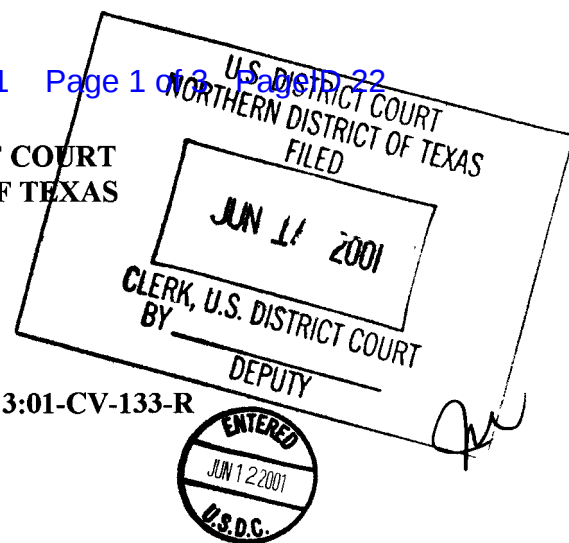
ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

PHILIP ROBINSON, #743748,  
Plaintiff/Appellant

vs.

DALLAS POLICE DEPARTMENT, et al.,  
Defendants/Appellees.



**RECOMMENDATION RE: PLAINTIFF'S IN FORMA PAUPERIS STATUS ON APPEAL**  
(for PLRA appeals)

Before the Court is a Notice of Appeal and a Request to Proceed *In Forma Pauperis* on Appeal. The Magistrate Judge, having considered the issue, finds and recommends as follows:

- ( X ) the plaintiff should be GRANTED leave to proceed *in forma pauperis*.
- ( ) the plaintiff should be DENIED leave to proceed *in forma pauperis* for the following reason(s):
- ( ) the plaintiff is not a pauper;
  - ( ) the plaintiff has not complied with the requirements of 28 U.S.C. §§ 1915 (a)(1) and/or (a)(2) as ordered by the court. (See Notice of Deficiency and Order filed on \_\_\_\_\_).
  - ( ) the plaintiff is barred from proceeding *in forma pauperis* on appeal because of the "three strikes" rule of 28 U.S.C. § 1915(g).
  - ( ) the court recommends that the District Court certify, pursuant to 28 U.S.C. § 1915 (a)(3) and Rule 24(a) of the Federal Rules of Appellate Procedure, that the appeal is not taken in good faith.

**RECOMMENDATION RE: PAYMENT OF PLRA FILING FEE**  
(to be completed by the Magistrate Judge only if recommending IFP status be granted)

The Prison Litigation Reform Act of 1995 ("PLRA") requires prisoners filing appeals *in forma pauperis* to pay the full filing fee. (\$105.00) The PLRA further requires prisoners, when funds exist, to pay an initial partial filing fee and thereafter to pay the balance of the full filing fee. In accordance with the foregoing findings, and pursuant to the PLRA, it is recommended that the plaintiff pay the appellate filing fee as follows:

- ( X ) An initial partial filing fee of 105.00 shall be paid to the District Clerk, when funds exist, from the inmate trust account or institutional equivalent. Thereafter, the plaintiff shall submit, from the inmate trust account or institutional equivalent, the remaining balance of the appellate filing fee of \$105.00 in monthly increments as mandated by the PLRA.
- ( ) The plaintiff lacks the funds necessary to submit an initial partial filing fee, but will be required to submit, from the inmate trust account or institutional equivalent, the full \$105.00 appellate filing fee in monthly increments as mandated by the PLRA.

DATE: June 6, 2001

Wm J. Sanderson Jr.  
UNITED STATES MAGISTRATE JUDGE

**ORDER RE: PLAINTIFF'S IN FORMA PAUPERIS STATUS ON APPEAL**

Considering the record in this case and the above recommendation, and pursuant to Rule 24(a) of the Federal Rules of Appellate Procedure and 28 U.S.C. § 1915(a), the Court finds and ORDERS as follows:

- ( X ) the plaintiff is GRANTED *in forma pauperis* status on appeal.
- ( ) the plaintiff is DENIED *in forma pauperis* status on appeal for the following reason(s):
- ( ) the plaintiff is not a pauper;
  - ( ) the plaintiff has not complied with the requirements of 28 U.S.C. § 1915(a)(1) and/or (a)(2) as ordered by the court. (See Notice of Deficiency and Order filed on \_\_\_\_\_).
  - ( ) the plaintiff is barred from proceeding *in forma pauperis* on appeal because of the "three strikes" rule of 28 U.S.C. § 1915(g).
  - ( ) the Court finds, pursuant to Fed. R. App. P 24(a) and 28 U.S.C. § 1915 (a)(3), that the appeal is not taken in good faith. In support of this finding, the Court adopts and incorporates by reference the Magistrate Judge's Findings and Recommendation entered in this case on \_\_\_\_\_. See *Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the Magistrate Judge's findings, this Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous.

**ORDER RE: PAYMENT OF PLRA FILING FEE**

(to be completed by the District Court only if granting *in forma pauperis* status)

In accordance with the foregoing order, permitting the plaintiff to proceed *in forma pauperis* on appeal and pursuant to the PLRA, it is ORDERED that the plaintiff pay the full amount of the appellate filing as follows:

- ( X ) An initial partial filing fee of 105.00 shall be paid to the District Clerk, when funds exist, from the inmate trust account or institutional equivalent. Thereafter, the plaintiff shall submit, from the inmate trust account or institutional equivalent, the remaining balance of the appellate filing fee of \$105.00 in monthly increments as mandated by the PLRA.
- ( ) The plaintiff lacks the funds necessary to submit an initial partial filing fee, but will be required to submit, from the inmate trust account or institutional equivalent, the full \$105.00 appellate filing fee in monthly increments as mandated by the PLRA.

The plaintiff shall execute all consents and other documents required by the agency having custody of plaintiff to authorize the necessary withdrawal from plaintiff's inmate trust account. After payment of the initial partial filing fee, if such a fee is required by the Court, the agency having custody of plaintiff shall deduct 20% of each deposit made to plaintiff's inmate trust account and forward payments to the District Clerk on a regular basis provided the account exceeds \$10.00.

The District Clerk shall MAIL a copy of this Order to the inmate accounting office or other person(s) or entity with responsibility for assessing, collecting, and remitting to the Court the interim filing fee payments on behalf of inmates, as designated by the facility in which the plaintiff is confined.

**ORDER RE: PAYMENT OF PLRA FILING FEE IF  
IN FORMA PAUPERIS STATUS ON APPEAL IS DENIED BECAUSE THE COURT  
CERTIFIES THE APPEAL IS NOT TAKEN IN GOOD FAITH**

(to be completed by the District Court only if certifying that the appeal is not taken in good faith)

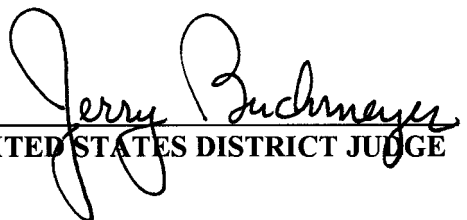
Although the Court has certified that the appeal is not taken in good faith under 28 U.S. C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the plaintiff may challenge this finding pursuant to Baugh v. Taylor, 117 F. 3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this order. The cost to file a motion to proceed on appeal with the Fifth Circuit is calculated below, and if the plaintiff moves to proceed on appeal *in forma pauperis* the prison authorities will be directed to collect the fees as calculated in this order.

- (✓) An initial partial filing fee of 105.00 shall be paid to the District Clerk, when funds exist, from the inmate trust account or institutional equivalent. Thereafter, the plaintiff shall submit, from the inmate trust account or institutional equivalent, the remaining balance of the appellate filing fee of \$105.00 in monthly increments as mandated by the PLRA.
- ( ) The plaintiff lacks the funds necessary to submit an initial partial filing fee, but will be required to submit, from the inmate trust account or institutional equivalent, the full \$105.00 appellate filing fee in monthly increments as mandated by the PLRA.

The plaintiff shall execute all consents and other documents required by the agency having custody of plaintiff to authorize the necessary withdrawal from plaintiff's inmate trust account. After payment of the initial partial filing fee, if such a fee is required by the Court, the agency having custody of plaintiff shall deduct 20% of each deposit made to plaintiff's inmate trust account and forward payments to the District Clerk on a regular basis provided the account exceeds \$10.00.

If the plaintiff moves to proceed on appeal *in forma pauperis*, the District Clerk shall MAIL a copy of this order to the inmate accounting office or other person(s) or entity with responsibility for collecting and remitting to the district court interim filing payments on behalf of prisoners, as designated by the facility in which the prisoner is currently or subsequently confined.

DATE: 11 June 01

  
UNITED STATES DISTRICT JUDGE